REMARKS

The Office Action dated June 8, 2009 (referred to hereinafter as "the Office Action"), has been received and reviewed. Claims 29-31, 33-35 and 37-39 were pending in the application, of which claims 29-31, 33-35 and 37-39 are currently under examination. Claims 1-28, 32, 36 and 40 were previously canceled. Claims 29, 33 and 37 have been amended. No new matter has been added.

Applicant respectfully requests reconsideration of the application in light of the remarks below.

Claim Rejections under 35 U.S.C. § 103

In the Office Action, claims 29-31, 33-35 and 37-39 stand rejected as being unpatentable over U.S. Patent No. 6,515,975 to Chheda *et al.* ("Chheda") in view of U.S. Patent No. 5,898,682 to Kanai ("Kanai") and further in view of U.S. Patent No. 6,567,682 to Moon ("Moon"). Applicant respectfully traverses this rejection, as hereinafter set forth.

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974); *see also* MPEP § 2143.03. Additionally, the Examiner must determine whether there is "an apparent reason to combine the known elements in the fashion claimed by the patent at issue." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-1741, 167 L.Ed.2d 705, 75 USLW 4289, 82 U.S.P.Q.2d 1385 (2007). Further, rejections on obviousness grounds "cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id* at 1741, quoting *In re Kahn*, 441, F.3d 977, 988 (Fed. Cir. 2006). Finally, to establish a *prima facie* case of obviousness there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Furthermore, the reason that would have prompted the combination and the reasonable expectation of success must be found in the prior art, common knowledge, or the nature of the problem itself, and not based on the Applicant's disclosure. *DyStar Textilfarben GmbH & Co. Deutschland KG v. C. H. Patrick Co.*, 464 F.3d 1356, 1367 (Fed. Cir. 2006); MPEP § 2144. Underlying the obvious determination is the fact that statutorily prohibited hindsight cannot be used. *KSR*, 127 S.Ct. at 1742; *DyStar*, 464 F.3d at 1367.

Applicant respectfully submits that the 35 U.S.C. § 103(a) obviousness rejections of claims 29-31, 33-35 and 37-39 are improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet the criterion that the prior art references must teach or suggest all the claims limitations.

Independent Claims 29, 33, 37

Regarding independent claims 29, 33 and 37, Applicant's independent claims 29, 33 and 37 include claim limitations not taught or suggested in the cited references. Applicant's independent claims 29, 33 and 37, each recite, in part, "***increasing a target signal-to-noise ratio (SNR) of a reverse link pilot channel*** carrying at least one of the power control signals for at least one of the plurality of base station transceivers when the quality of the at least one of the power control signals for the at least one of the plurality of base station transceivers is below a predefined target signal quality," which is not taught or suggested in the cited references. Generally, Applicant claims "increasing a target [] (SNR) ***on a reverse link pilot channel***" while the Office Action relies upon the teaching in Kanai of adjusting a ***forward link pilot channel***.

Specifically, the Office Action states, in part:

> Regarding claim 29 … Regarding claim 33 … Regarding claim 37, … ***Kanai clearly shows and discloses increasing a target signal-to-noise ratio (SNR) of a pilot channel*** carrying at least one of the power control signals for at least one of the plurality of base station transceivers when the quality of the at least one of the power control signals for the at least one of the plurality of base station transceivers is below a predefined target signal quality (if the traffic of the base station 500 approaches the allowable limit and deterioration of the communication quality of the base station is detected, ***the transmission power levels of the pilot signals of the base stations 500 and 510 are decreased and increased***, respectively; for the mobile station in the standby state, the cell size of the base station is reduced while the cell size of the base station is expanded; as a consequence, in the base station, the reduction in cell size brings about an increase in margin for thermal noise [col. 9 lines 20-26, 55-62]). Office Action, pp. 3, 4, 6, 7, 9 and 10; emphasis added).

Clearly, Kanai's teaching of "***pilot signals of the base stations*** 500 and 510" are ***forward link pilot channels*** and, therefore, **cannot** teach Applicant's claimed invention reciting, *inter alia*, "***increasing a target signal-to-noise ratio (SNR) of a reverse link pilot channel*** carrying at least one of the power control signals for at least one of the plurality of base station transceivers" as recited in Applicant's amended independent claims 29, 33 and 37.

Further, the Office Action concedes, "Chheda et al. fail to specifically disclose that the SNR of a pilot channel is increased," and relies upon Moon by alleging teachings of "increasing a pilot channel transmit power level of the pilot channel transmitted by the wireless device during a handoff." (Office Action, pp. 3-11).

Applicant respectfully submits that neither Chheda nor Kanai nor Moon, either individually nor in any proper combination, teach or suggest Applicant's invention as presently claimed in amended independent claims 29, 33 and 37, which each recite, in part, "***increasing a target signal-to-noise ratio (SNR) of a reverse link pilot channel*** carrying at least one of the power control signals for at least one of the plurality of base station transceivers when the quality of the at least one of the power control signals for the at least one of the plurality of base station transceivers is below a predefined target signal quality."

Therefore, since neither Chheda nor Kanai nor Moon teach or suggest at least "***increasing a target signal-to-noise ratio (SNR) of a reverse link pilot channel*** carrying at least one of the power control signals for at least one of the plurality of base station transceivers when the quality of the at least one of the power control signals for the at least one of the plurality of base station transceivers is below a predefined target signal quality" as claimed by Applicant, these references, individually or in any proper combination, **cannot** render obvious, under 35 U.S.C. §103, Applicant's invention as presently claimed in amended independent claims 29, 33 and 37. Accordingly, Applicant respectfully requests the rejection of amended independent claims 29, 33 and 37 be withdrawn.

Dependent Claims 30, 31, 34, 35, 38 and 39

The nonobviousness of independent claim 29 precludes a rejection of claims 30 and 31, which depend therefrom, because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See* In re Fine, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) obviousness rejection to independent claim 29 and claims 30 and 31 which depend therefrom.

The nonobviousness of independent claim 33 precludes a rejection of claims 34 and 35 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See* In re Fine, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see*

also MPEP § 2143.03. Therefore, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) obviousness rejection to independent claim 33 and claims 34 and 35 which depend therefrom.

The nonobviousness of independent claim 37 precludes a rejection of claims 38 and 39 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See* In re Fine, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) obviousness rejection to independent claim 37 and claims 38 and 39 which depend therefrom.

ENTRY OF AMENDMENTS

The proposed amendments to claims 29, 33 and 37 above should be entered because the amendments are supported by the as-filed specification and drawings and do not add any new matter to the application. Further, the amendments do not raise new issues or require a further search.

CONCLUSION

In light of the arguments contained herein, Applicant submits that the application is in condition for allowance, for which early action is requested.

Please charge any fees due or overpayments related to this response to Deposit Account No. 17-0026.

Respectfully submitted,

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